

RECEIVED
October 8, 2024

FILED
San Diego Superior Court

NOV 01 2024

Clerk of the Superior Court
By: A. Zarzoso, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

STEVEN MORENO, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

v.

SOUTHERN CALIFORNIA DISCOUNT
TIRE CO., INC., a California corporation; and
DOES 1 through 100, inclusive;

Defendants.

Case No.: 37-2022-00050608-CU-OE-CTL

Assigned for All Purposes to:
Honorable Matthew C. Braner
Department C-60

CLASS ACTION

**~~PROPOSED~~ ORDER OF FINAL
APPROVAL AND JUDGMENT**

Hearing Date: November 1, 2024
Hearing Time: 9:00 a.m.
Hearing Place: Department C-60

Complaint Filed: December 19, 2022
Trial Date: None Set

1 The Court, having read the papers filed regarding Plaintiff Steven Moreno's ("Plaintiff")
2 Motion for Final Approval of Class Action Settlement, and considering the papers submitted in
3 support of the motion, including the Class Action and PAGA Settlement Agreement ("Settlement
4 Agreement," "Settlement," or "Agreement"), hereby **FINDS AND ORDERS:**

5 Plaintiff and Defendant Southern California Discount Tire Co., Inc. ("Defendant")
6 entered the Settlement Agreement to settle this lawsuit on or about October 13, 2023.

7 The Court entered an order dated May 10, 2024 preliminarily approving the settlement of
8 this lawsuit ("Preliminary Approval Order"), consistent with the Code of Civil Procedure section
9 382 and California Rule of Court 3.769, ordering notice to be sent to Class Members, providing
10 Class Members with an opportunity to object to the Settlement or exclude themselves from the
11 Class, and scheduling a Final Approval Hearing.

12 The Court held a Final Approval Hearing to determine whether to give final approval to
13 the Settlement of this lawsuit on November 1, 2024.

14 1. Incorporation of Other Documents. This Order of Final Approval and Judgment
15 ("Order and Judgment") incorporates the Settlement Agreement. Unless otherwise provided
16 herein, all capitalized terms in this Order and Judgment shall have the same meaning as set forth
17 in the Settlement Agreement.

18 2. Jurisdiction. Because adequate notice has been disseminated and the Class has
19 been given the opportunity to request exclusion, the Court has personal jurisdiction with respect
20 to the claims of all Class Members. The Court has subject matter jurisdiction over this lawsuit,
21 including jurisdiction to approve the Settlement and grants final certification of the Class.

22 3. Final Class Certification. The Court finds that the Class satisfies all applicable
23 requirements of Code of Civil Procedure section 382, California Rule of Court 3.769, and due
24 process. The Court certifies the Class consisting of all individuals who were employed by
25 Defendant at its California stores as hourly-paid or non-exempt employees during the period
26 from December 19, 2018 through November 30, 2023 ("Class," "Class Members," and "Class
27 Period"). There are 11,664 Class Members who did not submit valid and timely Requests for
28 Exclusion from the Settlement ("Participating Class Members").

1 4. Adequacy of Representation. Class Counsel fully and adequately represented the
2 Class for purposes of entering and implementing the Settlement and satisfied the requirements of
3 Code of Civil Procedure section 382.

4 5. Class Notice. The Court finds that the Court Approved Notice of Class Action
5 Settlement and Hearing Date for Final Court Approval (“Class Notice”) and its distribution to
6 Class Members were implemented pursuant to the Settlement and this Court’s Preliminary
7 Approval Order. The Court also finds the Class Notice:

- 8 a. constitutes notice reasonably calculated to apprise Class Members of: (i)
9 pendency of this lawsuit; (ii) material terms and provisions of the
10 Settlement Agreement and their rights; (iii) their right to object to any
11 aspect of the Settlement Agreement; (iv) their right to exclude themselves
12 from the Settlement Agreement; (v) their right to receive settlement
13 payments; (vi) their right to appear at the Final Approval Hearing; and
14 (vii) binding effect of the orders and judgment in this lawsuit on all
15 Participating Class Members;
- 16 b. constitutes notice that fully satisfied the requirements of Code of Civil
17 Procedure section 382, California Rule of Court 3.769, and due process;
- 18 c. constitutes the best practicable notice to Class Members under the
19 circumstances of this lawsuit; and
- 20 d. constitutes notice reasonable, adequate, and sufficient to Class Members.

21 6. Final Settlement Approval. The terms and provisions of the Settlement
22 Agreement have been entered into good faith and are the product of arm’s-length negotiations by
23 experienced counsel who have done a meaningful investigation of the claims. The Settlement
24 Agreement and all its terms and provisions are fully and finally approved as fair, reasonable,
25 adequate, and in the best interests of the Parties. The Parties are hereby directed to implement the
26 Settlement Agreement according to its terms and provisions.

27 ///

28 ///

1 7. Binding Effect. The terms and provisions of the Settlement Agreement and this
2 Order and Judgment are binding on Plaintiff, Participating Class Members, Aggrieved
3 Employees, and their spouses, heirs, registered domestic partners, executors, administrators,
4 successors, and assigns. In addition, those terms shall have res judicata and other preclusive
5 effect in all pending and future claims, lawsuits, or other proceedings maintained by or on behalf
6 of any such persons to the extent those claims, lawsuits, or other proceedings involve matters
7 that were or could have been raised in this lawsuit and are encompassed by the Released Class
8 Claims and Released Private Attorneys General Act of 2004 (“PAGA”) Claims. The Settlement
9 Agreement will have no binding effect upon, and provide no res judicata preclusion to, those
10 Class Members who have submitted timely requests for exclusion.

11 8. Enforcement of Settlement. Nothing in this Order and Judgment shall preclude
12 any action to enforce the terms and provisions of the Settlement Agreement.

13 9. Release by Participating Class Members. Effective on the date when Defendant
14 fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the
15 Wage Portion of the Individual Class Payments, all Participating Class Members, on behalf of
16 themselves and their former and present representatives, agents, attorneys, heirs, administrators,
17 successors, and assigns, release the Released Parties from the Released Class Claims.

18 a. Release by Aggrieved Employees. Effective on the date when Defendant
19 fully funds the entire Gross Settlement Amount and funds all employer
20 payroll taxes owed on the Wage Portion of the Individual Class Payments,
21 all Participating and Non-Participating Class Members, who are
22 Aggrieved Employees, are deemed to release, on behalf of themselves and
23 their former and present representatives, agents, attorneys, heirs,
24 administrators, successors, and assigns, the Released Parties from the
25 Released PAGA Claims.

26 ///

27 ///

28 ///

1 b. Plaintiff's Release. Effective on the date when Defendant fully funds the
2 entire Gross Settlement Amount and funds all employer payroll taxes
3 owed on the Wage Portion of the Individual Class Payments, Plaintiff and
4 his former and present spouses, representatives, agents, attorneys, heirs,
5 administrators, successors, and assigns generally release and discharge
6 Released Parties from the Plaintiff's Release. Plaintiff also expressly
7 waives and relinquishes the provisions, rights, and benefits, if any, of
8 section 1542 of the Civil Code.

9 c. Released Parties. The Released Parties include Defendant and its parents,
10 subsidiaries and affiliates, and its/their officers, shareholders, directors,
11 agents, employees, attorneys, and insurers.

12 10. Class Representative Service Payment. The Court finds that the Class
13 Representative Service Payment of \$10,000, to be paid by Defendant to Plaintiff, out of the
14 Gross Settlement Amount, to be reasonable and appropriate. The Class Representative Service
15 Payment is to be paid pursuant to the terms and provisions set forth in the Settlement Agreement.

16 a. The rationale for making enhancement payments is class representatives
17 should be compensated for the expense and risk they incurred in
18 conferring a benefit on the Class. Criteria courts consider include: (i) risk
19 to the class representatives in commencing suit; (ii) notoriety and personal
20 difficulties; (iii) amount of time and effort spent by the class
21 representatives; (iv) duration of the litigation; and (v) personal benefit (or
22 lack thereof) enjoyed by class representatives.

23 b. The Court reviewed Plaintiff's declaration outlining his involvement.
24 Given the risks inherent in the services as the class representative, duration
25 of the case and time involved, and benefits created for the Class, the Court
26 approves the payment of the Class Representative Service Payment of
27 \$10,000 to Plaintiff.

28 ///

11. Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment.

The Court finds that the Class Counsel Fees Payment of \$1,800,000, to be paid by Defendant to Class Counsel out of the Gross Settlement Amount, to be reasonable and appropriate. In addition, The Court finds that the Class Counsel Litigation Expenses Payment as reimbursement for actual litigation costs incurred of \$20,248.04, to be paid by Defendant to Class Counsel out of the Gross Settlement Amount, to be reasonable and appropriate. Such fees and costs are to be paid pursuant to the terms and provisions set forth in the Settlement Agreement. Defendant shall not be required to pay for any other attorneys' fees and expenses, costs, or disbursements incurred by Class Counsel or any other counsel representing Plaintiff or Class Members. Defendant shall also not be required to pay for any other attorneys' fees and expenses, costs, or disbursements incurred by Plaintiff or Class Members in connection with or related in any manner to this lawsuit, Settlement Agreement, settlement administration, Released Class Claims, and Released PAGA Claims.

- a. The Court has an independent right and responsibility to review the Class Counsel Fees Payment and only award so much as it determines reasonable. (*Garabedian v. Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-128.) The Class Counsel Fees Payment of 1,800,000 is one-third (1/3) of the common fund created for the benefit of the Class and is supported by use of the percentage-fee method. (See *Laffitte v. Robert Half International, Inc.* (2016) 1 Cal.5th 480, 504.) Considering the results achieved, financial risk undertaken, difficult nature of this litigation, skills required, percentage fees award in previous and other cases, and contingent fees charged in the marketplace, The Court finds that the Class Counsel Fees Payment is consistent with the marketplace, is reasonable, and is approved.

///

///

///

1 b. The Court reviewed the Declaration of Douglas Han regarding the costs
2 expended. Under the terms of the Settlement, Class Counsel may seek
3 reimbursement of up to \$30,000 in litigation costs. The Court finds that
4 Class Counsel expended \$20,248.04 in litigation costs, and such costs
5 were reasonable. The Court approves the payment of the Class Counsel
6 Litigation Expenses Payment of \$20,248.04 from the common fund for the
7 reimbursement of Class Counsel's litigation costs.

8 12. Administration Expenses Payment. The Court finds that Administration Expenses
9 Payment of \$58,950, to be paid by Defendant to the Administrator out of the Gross Settlement
10 Amount, to be reasonable and appropriate. The Administration Expenses Payment are to be paid
11 pursuant to terms and provisions set forth in the Settlement Agreement.

12 a. The Court reviewed the declaration of Nathalie Beltran from ILYM
13 Group, Inc., the Administrator. The Court finds that notice was provided
14 to the Class pursuant to the Preliminary Approval Order, constitutes the
15 best practicable notice to the Class, and satisfied due process. Thus, the
16 Court approves the payment of the Administration Expenses Payment of
17 \$58,950 for the Administrator's services in administering the Settlement.

18 13. PAGA Penalties. The Court finds that the PAGA Penalties of \$250,000, seventy-
19 five percent (75%) of which (\$187,500) will be paid to the California Labor and Workforce
20 Development Agency out of the Gross Settlement Amount and twenty-five percent (25%) of
21 which (\$62,500) will be distributed to Aggrieved Employees, on a pro rata basis, to be
22 reasonable and appropriate. The PAGA Penalties is to be paid pursuant to the terms and
23 provisions set forth in the Settlement Agreement.

24 14. Funding the Gross Settlement Amount. Defendant shall fund the Gross Settlement
25 Amount by transmitting the funds to the Administrator no later than the Effective Date. Within
26 fourteen (14) calendar days after the full funding of the Gross Settlement Amount, the
27 Administrator will mail settlement checks to the appropriate persons and entities.

28 ///

1 15. Fairness of the Settlement. As noted in the Preliminary Approval Order, the
2 Settlement is entitled to a presumption of fairness. In the moving papers, Plaintiff contends the
3 Settlement was the product of arm's-length negotiations following extensive litigation,
4 discovery, and exchange of documentation. The negotiations were facilitated with the aid of
5 Mark Rudy, an experienced and well-respected mediator.

6 16. Uncashed Checks. Participating Class Members and Aggrieved Employees must
7 cash or deposit their settlement checks within one hundred eighty (180) calendar days after the
8 checks are mailed by the Administrator to them. Uncashed settlement checks will be canceled
9 and transmitted to the California Controller's Unclaimed Property Fund.

10 17. Modification of Settlement Agreement. The Participating Class Members are
11 hereby authorized to agree to and adopt amendments to or modifications of the Settlement
12 Agreement by an express written instrument signed by all Parties or their representatives and
13 approved by the Court. Such amendments or modifications shall be consistent with this Order
14 and Judgment and cannot limit the rights of Participating Class Members under the Settlement.

15 18. Final Accounting and Compliance. The Court sets a compliance hearing for
16 August 15, 2025 ^{at 11:15 AM} in Department C-60. At least (5) court days before this hearing, Plaintiff shall
17 file a compliance status report. Pursuant to Code of Civil Procedure section 384, the compliance
18 status report shall specify the total amount paid to Participating Class Members and the residual
19 of the unclaimed settlement funds that will be paid to the entity identified as the recipient of such
20 funds in the Settlement Agreement.

21 19. Retention of Jurisdiction. The Court has jurisdiction to enter this Order and
22 Judgment. This Court expressly retains jurisdiction for the administration, interpretation,
23 effectuation, and/or enforcement of the Settlement Agreement and of this Order and Judgment,
24 and for any other necessary purpose, including, without limitation:

- 25 a. enforcing the terms and provisions of the Settlement Agreement and
26 resolving any disputes, claims, or causes of action in this lawsuit that, in
27 whole or in part, are related to or arise out of the Settlement Agreement or
28 this Order and Judgment;

- 1 b. entering such additional orders as may be necessary or appropriate to
2 protect or effectuate this Order and Judgment approving the Settlement
3 Agreement, and permanently enjoining Plaintiff from initiating or
4 pursuing related proceedings, or to ensure the fair and orderly
5 administration of the Settlement Agreement; and
6 c. entering any other necessary or appropriate orders to protect and effectuate
7 this Court's retention of continuing jurisdiction.

8 The Motion for Final Approval of Class Action Settlement, Class Counsel Fees Payment,
9 Class Counsel Litigation Expenses Payment, and Class Representative Service Payment is
10 GRANTED. The Administrator is directed to carry out the terms of the Agreement forthwith.

11 THE PARTIES ARE HEREBY ORDERED TO COMPLY WITH THE TERMS OF
12 THE SETTLEMENT AGREEMENT. PURSUANT TO CALIFORNIA RULES OF COURT
13 3.769, THE COURT HEREBY ENTERS FINAL JUDGMENT BASED UPON THE TERMS
14 OF THIS ORDER AND SETTLEMENT AGREEMENT AND, WITHOUT AFFECTING THE
15 FINALITY OF THIS MATTER, RETAINS EXCLUSIVE AND CONTINUING
16 JURISDICTION TO ENFORCE THIS ORDER, THE SETTLEMENT AGREEMENT, AND
17 THE JUDGMENT THEREON.

18 **IT IS SO ORDERED.**

19
20 DATED: 11/1/24



HONORABLE MATTHEW C. BRANER
SUPERIOR COURT JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, California 91103 and my electronic service address is dmather@justicelawcorp.com.

On November 18, 2024, I served the foregoing document described as

ORDER OF FINAL APPROVAL AND JUDGMENT

for the following case: **Moreno v. Southern California Discount Tire Co., Inc.**
LWDA/Court Case No.: **LWDA Case No.: LWDA-CM-910456-22**
Court Case No.: 37-2022-00050608-CU-OE-CTL
San Diego County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

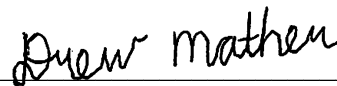
[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 18, 2024, at Pasadena, California.



Drew Mather